

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES RAMSEY,

Petitioner,

v.

KIMBERLY M. GARDNER,

Respondent.

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No. 4:18-CV-937 JCH

MEMORANDUM AND ORDER

This matter is before the Court upon review of petitioner's pro se petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition is defective because it has not been drafted on a Court-provided form. *See* Local Rule 2.06(A). Additionally, petitioner has not paid the filing fee or filed a motion to proceed in forma pauperis. *See* 28 U.S.C. § 1915(a).

Accordingly,

IT IS HEREBY ORDERED that the Clerk shall mail to petitioner a copy of the Court's form petition for a writ of habeas corpus under 28 U.S.C. § 2241.

IT IS FURTHER ORDERED that the Clerk shall mail to petitioner a copy of the Court's application to proceed in district court without prepaying fees or costs.

IT IS FURTHER ORDERED that petitioner shall file an amended petition on the Court-provided form within twenty-one (21) days of the date of this Order. Petitioner is advised that his amended petition will take the place of his original petition and will be the only pleading that this Court will review.

IT IS FURTHER ORDERED that petitioner shall either pay the \$5 filing fee or submit an application to proceed in district court without prepaying fees or costs within twenty-one (21) days of the date of this Order.

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice.

Dated this 14th day of June, 2018.

\s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
DIVISION**

<i>Petitioner</i>)	
)	
)	
v.)	
)	Case No: _____
)	(to be assigned by Clerk of District Court)
)	
<i>Respondent</i>)	
(name of warden or authorized person having custody of petitioner))	

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: _____
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: _____
(b) Address: _____

(c) Your identification number: _____
3. Are you currently being held on orders by:
☐ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
 (a) Name and location of court that sentenced you: _____

 (b) Docket number of criminal case: _____
 (c) Date of sentencing: _____
☐ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example,

revocation or calculation of good time credits)

- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (*explain*):

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court:

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☐ No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court:

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not appeal:

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered “No,” explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☐ No

If “Yes,” answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals? _____

☐ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☐ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes ☐ No

GROUND TWO:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes ☐ No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes ☐ No

GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do:

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: _____

Signature of Petitioner

Signature of Attorney or other authorized person, if any

UNITED STATES DISTRICT COURT
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**MOTION TO PROCEED IN FORMA PAUPERIS
AND AFFIDAVIT IN SUPPORT - HABEAS CASES**

I
declare (1) that I am the petitioner in this case; (2) that because of
my poverty I am unable to pay the filing fee; and (3) that I
believe I am entitled to relief. The nature of my action and the
issues are briefly stated as follows.

In further support of this application, I answer the following
questions:

1. Place of confinement of petitioner:

2. Crime(s) for which you have been convicted, date and sentence on
each:

3. Are you presently employed? Yes _____ No _____

a. If the answer is 'yes' state the amount of your salary or
wages per month and give the name and address of your
employer.

- b. If the answer is 'no' state the date of last employment and the amount of the salary and wages per month which you received.

4. Have you received within the past twelve (12) months, money from any of the following sources?

	Yes	No
Business profession or form of self-employment,	_____	_____
Rent payments interest or dividend,	_____	_____
Pensions annuities or life insurance payments,	_____	_____
Gifts or inheritances,	_____	_____
Any other sources.	_____	_____

If the answer to any of the above is 'yes' describe the source and amount of money received from each during the past twelve (12) months.

5. Do you own any cash or do you have money in a checking or savings account? Include any funds in your prison account.
Yes _____ No _____

If the answer is 'yes' state the total amount of cash owned, and the balance in all checking savings or prison accounts.

6. Do you own real estate stocks bonds notes automobiles, or other valuable property (excluding ordinary household furnishings and clothing) Yes _____ No _____

If the answer is 'yes' describe the property and state its approximate value.

7. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support:

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT. I UNDERSTAND THAT PROVIDING FALSE INFORMATION MAY SUBJECT ME TO CRIMINAL PROSECUTION, IMPOSITION OF A FINE, OR OTHER SANCTION THAT MAY ADVERSELY AFFECT MY ABILITY TO PURSUE THIS CASE OR OTHER CASES. I HAVE REVIEWED MY ANSWERS TO INSURE THEIR ACCURACY.

Executed (signed) this _____ day of _____ 20____.

(Signature of petitioner)

Certificate

I certify that the applicant named herein has the sum of
\$ _____ on account to his or her
credit at the _____ institution where he or

she is confined. I further certify that the applicant likewise has the following securities to his or her credit according to the records of said institution:

Authorized Officer of Institution